writer of this review, is in the opinions of the justices, 155 Mass. 598. There the question was as to the constitutionality of the proposition for the operation of municipal coal yards; upon that question five of the justices said that this was a well-known form of private business, — not differing essentially from the trades of buying and selling other necessaries of life; the two dissenting judges dwelt upon the power of the law to meet all public needs. Mr. Chaplin pleads throughout that because of the present exigency the common law principle extends far enough to make out public calling in the present case. What he fails to consider is what consequences would follow, because of the force of a decision at common law in fixing a class for all future cases. Suppose a decision upon a writ of mandamus is handed down this month that coal mining, as it is conducted by the combination in Pennsylvania, is public calling because of the virtual monopoly; suppose, then, that next month the pool is broken and the seventy-five companies enter into competition, — does the business now revert to private calling? If you have one grocery in a town, that does not make it public calling, to revert to private calling when a new store is opened. Such a shifting of the position of things back and forth is hardly possible as a legal state of things. The law moves only in reference to conditions established by long experience, fixed upon stable foundations. Unless we restrict the unusual class of public callings to that situation where there is a permanent control of the service in the nature of things, we lay all industries open to public operation; that means the changing of our theory of the state from individualism to socialism. B. W.

THE LAW OF VOID JUDICIAL SALES. The Legal and Equitable Rights of Purchasers at Void Judicial, Execution, and Probate Sales, and the Constitutionality of Special Legislation validating Void Sales and authorizing Involuntary Sales, in the Absence of Judicial Proceedings. Fourth edition. By A. C. Freeman. St. Louis: Central Law Journal Company. 1902. pp. 341. 8vo.

What is said of the third edition of this book in 4 HARV. L. REV. 97, is equally true of the fourth edition. The author deserves praise for his clear and logical treatment of a troublesome topic. Some simple theories are propounded which should help to solve the legal difficulties frequently arising in cases of execution and judicial sales. As a text-book on a branch of the law that is of interest primarily to the practitioner, the volume will surely prove to be a work of great usefulness, — in fact, a standard manual on its subject.

While the plan and scope of this edition are essentially the same as those of the third edition, material additions are made to the subject-matter and the number of citations is nearly doubled. The alteration in the title can, however, hardly be regarded as a change for the better. The former title, beginning "Void Execution, Judicial, and Probate Sales," is more comprehensive and at the same time more exactly descriptive of the contents of the work than the present heading. A. L.

VISUAL ECONOMICS, with Rules for the Estimation of the Earning Ability after Injuries to the Eyes. By H. Magnus and H. V. Würdemann. Milwaukee: C. Porth. 1902. pp. 144. 5 plates. 8vo.

This book, which is designed to present to American readers the work of Professor Magnus, is an adaptation, rather than a translation, of the latter's German treatise. It enters upon a field hitherto almost wholly unexplored by English and American writers, namely, the scientific calculation of the economic values of bodily functions and the deduction of mathematical formulas designed to furnish a basis for determining the extent to which those values are impaired by injuries to the functions. The writers begin with a careful analysis of the elements entering into the complete earning capacity of individuals possessed of normal eyesight; they then evolve a formula by which to estimate the effect produced upon this "visual earning ability" by any

injury to the eyes, as it may affect directly the functional power of the eyes themselves, or indirectly the individual's ability to compete in the labor market.

The extent to which mathematical formulas or tables can be used in legal proceedings would seem logically to depend upon the accuracy of the results that will be attained by their use. Where a formula is susceptible of rigid demonstration, it might very properly be given to a jury with a direction to use it as a basis for computing damages, the court merely taking judicial notice of the accuracy of the mathematical processes involved. Absolute exactness, however, would be required to justify such a mandatory use. A formula of this sort has recently appeared in these pages. See 15 HARV. L. REV. 866.

Another possible mode of dealing with formulas is suggested by the familiar use made of mortality tables. These are admissible in evidence, as embodying tabulated results from actual experience; the doctrine of judicial notice is invoked only to the extent of recognizing them as accurate embodiments of these results. Formulas like that of Professor Magnus, however, differ from the one suggested above, in that they are incapable of rigid demonstration because of the obvious necessity of making certain arbitrary suppositions in expressing natural powers in mathematical terms. On the other hand, they are like the mortality tables in being based on experience and investigation; but, unlike these, they are not mere tabulations of results, but are dependent for their value upon the soundness of judgment of the maker. Accordingly, the necessity of proving such formulas and the complexity of issues thereby raised would seriously affect their usefulness as evidence either by themselves or in support of an expert's testimony, if it did not, in fact, render them inadmissible. Nevertheless they undoubtedly indicate a movement in the right direction, aiming as they do to reduce to a minimum the element of conjecture so prominent in jury trials.

Finally, the writers maintain that their formula will be useful to accident insurance companies and pension bureaus, in adjusting claims and granting pensions; but such a use must, in this country, be limited, because of the extensive use of valued policies, and because pensions depend so largely on the rank of the pensioner.

THE RIGHT TO AND THE CAUSE FOR ACTION, both Civil and Criminal, at Law, in Equity and Admiralty, under the Common Law and under the Codes. By Hiram L. Sibley, Circuit Judge in the Fourth District of Ohio. Cincinnati: W. H. Anderson & Co. 1902. pp. x, 165. 8vo.

If clear apprehension and exact statement conduce to sound law, the present work may be unhesitatingly commended. Dealing with a subject that is elementary and yet vitally important because fundamental, it presents the author's views in a simple, convincing manner. He seldom indulges in unnecessary verbiage, but nevertheless suggests ample illustration for each proposition.

His main contentions are that "the right to action arises wholly by force of the remedial law when a legal wrong has been committed" and is independent of the substantive law; and that the cause for action is simply a legal wrong, as distinguished, on the one hand, from the substantive law, which merely conditions it, and, on the other, from the remedial law, which only gives it an avenue of redress. These propositions he ably defends, pointing out the certain value of their application to the law of Parties, to Pleading, and to the sometimes difficult problem of determining the *locus* of the cause for action.

In supporting his contention that "a wrong in every case implies a cause for action and *vice versa*," Judge Sibley (on p. 28) takes issue with a statement made by Mr. Justice Holmes in his familiar work on the Common Law. The latter, at p. 148, says: "It cannot be inferred from the mere fact that certain conduct is made actionable, that therefore the law regards it as a wrong or seeks to prevent it. Under our mill acts a man has to pay for flowing his neighbor's lands, in the same way that he has to pay in trover for converting his neighbor's property. Yet the law approves and encourages the flowing of lands for the erection of mills." In reply to this Judge Sibley suggests that "it is not the act of flowing lands which is actionable, but the failure to com-